

MICHAEL J. CURLS (SBN 159651)
NICHELLE D. JONES (SBN 186308)
LAW OFFICE OF MICHAEL J. CURLS
4340 Leimert Blvd., Suite 200
Los Angeles, CA 90008
Telephone: (323) 293-2314
Facsimile: (323) 293-2350

Attorneys for Plaintiffs MARLENE HENDERSON, THE ESTATE OF EDYTH HENDERSON and THE ESTATE OF JOSEPH HENDERSON

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CRUZ, CIVIL DIVISION

MARLENE HENDERSON, THE
ESTATE OF EDYTH HENDERSON,
and THE ESTATE OF JOSEPH
HENDERSON

Plaintiffs,

vs.

COUNTY OF SANTA CRUZ, THE
SANTA CRUZ COUNTY SHERIFF'S
DEPARTMENT, THE SANTA CRUZ
COUNTY HEALTH SERVICES
AGENCY, and DOES 1 THROUGH 25,
INCLUSIVE,

Defendants

Case No.: 14-CV-03544 RMW

PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR

- 1) Wrongful Death;
- 2) Negligent Infliction of Emotional Distress
- 3) Negligent Hiring, Training, and Supervision;
- 4) Negligence: Failure to Warn
- 5) Violation of Plaintiff's Rights Under the Fourteenth Amendment to the United States Constitution Pursuant to 42 USC § 1983

DEMAND FOR JURY TRIAL

PLAINTIFFS MARLENE HENDERSON and THE ESTATE OF EDYTH HENDERSON and THE ESTATE OF JOSEPH HENDERSON allege:

PARTIES

1. Plaintiff MARLENE HENDERSON is the surviving daughter of Decedents EDYTH HENDERSON and JOSEPH HENDERSON, and is a resident of the State of California.

2. Decedent EDYTH HENDERSON was a resident of the State of California, County of Santa Cruz.

3. Decedent JOSEPH HENDERSON was a resident of the State of California, County of Santa Cruz.

4. Defendant COUNTY OF SANTA CRUZ ("SANTA CRUZ COUNTY") is a municipal corporation organized and existing under the laws of the State of California, and is a "business establishment" within the meaning of sections 51 *et. seq.* of the California Civil Code. operating pursuant to its charter and the laws of the State of California.

5. Defendant SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT (hereinafter refereed to as SCSD) is a department within the County of SANTA CRUZ.

6. Defendant SANTA CRUZ COUNTY HEALTH SERVICES AGENCY is a department within the County of SANTA CRUZ.

7. Plaintiffs are unaware of the true names and capacities of those Defendants sued herein as DOE Defendants. Plaintiffs will amend this complaint to allege said Defendants' true names and capacities when that information becomes known to them. Plaintiffs are informed, believe, and thereon allege that these DOE Defendants are legally responsible and liable for the incident, injuries and damages hereinafter set forth, and that each of said Defendants proximately caused the injuries and damages by reason of negligent, careless, deliberately indifferent, intentional, willful or wanton misconduct, including the negligent, careless, deliberately indifferent, intentional, willful or wanton misconduct in creating and otherwise causing the incidents, conditions and circumstances

hereinafter set forth, or by reason of direct or imputed negligence or vicarious fault or breach of duty arising out of the matters herein alleged. Plaintiffs will seek leave to amend this complaint to set forth said true names and identities of the unknown named DOE Defendants when they are ascertained.

8. Each of the named and unknown individual Defendants sued herein are sued both in their individual and personal capacity, as well as in their official capacity.

9. Defendants and each of them at all times herein were the agents and employees of their co-defendants and in doing these things hereafter alleged were acting within the course and scope of their employment and agency and with permission and consent of their co-defendants and employers.

FACTS COMMON TO ALL COUNTS

1. Plaintiffs have exhausted their administrative remedies by filing a claim for damages with the County of SANTA CRUZ, SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES AGENCY. Plaintiff's claim is deemed rejected pursuant to Government Code § 912.4(b).

2. On June 30, 2013, decedent EDYTH HENDERSON and decedent JOSEPH HENDERSON were brutally murdered by their son, James Henderson.

3. James Henderson was housed in the Santa Cruz County Jail Mental Health Unit.

4. Prior to James Henderson's release, the decedent EDYTH HENDERSON and Plaintiff MARLENE HENDERSON had been working diligently to have James Henderson released from the Santa Cruz County Jail into a Mental Health Facility.

5. MARLENE HENDERSON and EDYTH HENDERSON informed the Santa Cruz County jail staff and the Santa Cruz County Health Services Agency that it was imperative that James Henderson be released from jail to a mental

1 health facility because he suffered from paranoid schizophrenia, agoraphobia,
2 and antisocial personality disorder. Prior to his release, James Henderson had
3 been making threats of physical harm against EDYTH HENDERSON, JOSEPH
4 HENDERSON and MARLENE HENDERSON. EDYTH HENDERSON and
5 JOSPEH HENDERSON told the Santa Cruz County Jail and the Santa Cruz
6 County Health Services Agency that James Henderson posed an immediate
7 threat to the Henderson family.

8 6. EDYTH HENDERSON and MARLENE HENDERSON were assured by
9 the SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
10 COUNTY HEALTH SERVICES AGENCY that James Henderson would be
11 appointed to the Maintaining Ongoing Stability through Treatment ("M.O.S.T.")
12 Team and would be released from jail on Mental Health Probation.

13 7. EDYTH HENDERSON and MARLENE HENDERSON pleaded with the
14 SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
15 COUNTY HEALTH SERVICES AGENCY to be notified when James Henderson
16 was released from prison because EDYTH HENDERSON and MARLENE
17 HENDERSON feared for their safety.

18 8. James Henderson was released from jail one month early without
19 notice to the Henderson Family. James Henderson was released into
20 homelessness and not placed into the MOST program.

21 9. On June 30, 2013, James Henderson surprised EDYTH HENDERSON
22 and JOSEPH HENDERSON at their home and killed them quickly.

23 10. EDYTH HENDERSON witnessed the death of her husband JOSEPH
24 HENDERSON before she was murdered.

25 11. Prior to the death of EDYTH HENDERSON and JOSEPH
26 HENDERSON, THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA
27 CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY
28 HEALTH SERVICES AGENCY knew that James Henderson posed an imminent

1 threat to the safety of his family and breached their duty to the Henderson family
2 by failing to take action to prevent the danger. As a result of the negligence of
3 THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
4 SHERIFF'S DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH
5 SERVICES AGENCY; Claimants MARLENE HENDERSON, EDYTH
6 HENDERSON, and JOSEPH HENDERSON were deprived of their rights as
7 protected by the United States Constitution. The conduct of THE COUNTY OF
8 SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
9 DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH SERVICES
10 AGENCY created a danger to the Plaintiffs and made them more susceptible to
11 an existing danger then that they otherwise would not have faced.

12 12. THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
13 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
14 SERVICES AGENCY were also negligent in their failure to supervise and train
15 their employees and in the hiring and retention of the same employees within the
16 County of Santa Cruz, The County of SANTA CRUZ COUNTY SHERIFF'S
17 DEPARTMENT and the Santa Cruz County Health Services Agency.

18 13. Plaintiffs are informed and believe, and thereon allege, that there is a
19 custom and policy within THE COUNTY OF SANTA CRUZ, THE SANTA CRUZ
20 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
21 SERVICES AGENCY whereby inmates with severe mental health issues are not
22 given the proper care, treatment and rehabilitation while incarcerated in the
23 Santa Cruz County Jail thereby causing these inmates to be a danger to
24 themselves and third persons upon their release from the Santa Cruz County
25 Jail.

26 14. Plaintiffs are informed and believe, and thereon allege, that there is also
27 a policy within the COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
28 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH

1 SERVICES AGENCY whereby inmates with severe mental health problems and
2 known propensities to commit harm to civilians are released from the Santa Cruz
3 County Jail into homelessness where they pose an imminent threat of harm to
4 civilians upon their release.

5 15. Plaintiffs are informed and believe, and thereon allege, that there is also
6 a policy within the COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
7 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
8 SERVICES AGENCY whereby civilians who have been threatened by dangerous
9 inmates housed at the Santa Cruz County Jail are not given notice prior to the
10 release of dangerous inmates who pose a specific threat of danger and harm to
11 civilians.

12 16. Plaintiffs are informed and believe, and thereon allege, that there is also
13 a policy within the COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
14 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
15 SERVICES AGENCY whereby civilians are given false assurances by the
16 COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY SHERIFF'S
17 DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES AGENCY
18 that they would be notified prior to the release of inmates who have made
19 specific threats of violence against them prior to the release of the inmates.

20 17. The COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
21 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
22 SERVICES AGENCY exhibit deliberate indifference to the treatment,
23 rehabilitation and care of inmates suffering from serious mental illness and who
24 are a known threat to the safety of civilians.

25 18. The COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
26 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
27 SERVICES AGENCY exhibit deliberate indifference in their failure to warn
28

1 civilians of the release of dangerous inmates who have made specific threats of
2 harm and violence to civilians.

3 19. The deliberate indifference of COUNTY OF SANTA CRUZ, THE
4 SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
5 COUNTY HEALTH SERVICES AGENCY enable inmates similarly situated to
6 James Henderson to pose an imminent threat of harm to civilians similarly
7 situated to EDYTH HENDERSON and JOSEPH HENDERSON.

8 **FIRST CAUSE OF ACTION**

9 **(By Plaintiff MARLENE HENDERSON**

10 **For Wrongful Death Against All Defendants)**

11 20. Plaintiffs reallege and reincorporate each and every allegation and
12 averment set forth in Paragraphs 1 through 19 of this complaint as though fully
13 set forth herein.

14 21. On June 30, 2013, decedent EDYTH HENDERSON and decedent
15 JOSEPH HENDERSON were brutally murdered by their son, James Henderson.

16 22. James Henderson was housed in the Santa Cruz County Jail Mental
17 Health Unit.

18 23. Prior to James Henderson's release, the decedent EDYTH
19 HENDERSON and Plaintiff MARLENE HENDERSON had been working
20 diligently to have James Henderson released from the Santa Cruz County Jail
21 into a Mental Health Facility.

22 24. MARLENE HENDERSON and EDYTH HENDERSON informed the
23 Santa Cruz County jail staff and the Santa Cruz County Health Services Agency
24 that it was imperative that James Henderson be released from jail to a mental
25 health facility because he suffered from paranoid schizophrenia, agoraphobia,
26 and antisocial personality disorder. Prior to his release, James Henderson had
27 been making threats of physical harm against EDYTH HENDERSON, JOSEPH
28 HENDERSON and MARLENE HENDERSON. EDYTH HENDERSON and

1 JOSPEH HENDERSON told the Santa Cruz County Jail and the Santa Cruz
2 County Health Services Agency that James Henderson posed an immediate
3 threat to the Henderson family.

4 25. EDYTH HENDERSON and MARLENE HENDERSON were assured by
5 the SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
6 COUNTY HEALTH SERVICES AGENCY that James Henderson would be
7 appointed to the Maintaining Ongoing Stability through Treatment ("M.O.S.T.")
8 Team and would be released from jail on Mental Health Probation.

9 26. EDYTH HENDERSON and MARLENE HENDERSON pleaded with the
10 SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CURZ
11 COUNTY HEALTH SERVICES AGENCY to be notified when James Henderson
12 was released from prison because EDYTH HENDERSON and MARLENE
13 HENDERSON feared for their safety.

14 27. James Henderson was released from jail one month early without
15 notice to the Henderson Family. James Henderson was released into
16 homelessness and not placed into the MOST program.

17 28. On June 30, 2013, James Henderson surprised EDYTH HENDERSON
18 and JOSEPH HENDERSON at their home and killed them quickly.

19 29. EDYTH HENDERSON witnessed the death of her husband JOSEPH
20 HENDERSON before she was murdered.

21 30. Prior to the death of EDYTH HENDERSON and JOSEPH
22 HENDERSON, THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA
23 CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY
24 HEALTH SERVICES AGENCY knew that James Henderson posed an imminent
25 threat to the safety of his family and breached their duty to the Henderson family
26 by failing to take action to prevent the danger. As a result of the negligence of
27 THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
28 SHERIFF'S DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH

1 SERVICES AGENCY; Claimants MARLENE HENDERSON, EDYTH
2 HENDERSON, and JOSEPH HENDERSON were deprived of their rights as
3 protected by the United States Constitution. The conduct of THE COUNTY OF
4 SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
5 DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH SERVICES
6 AGENCY created a danger to the Plaintiffs and made them more susceptible to
7 an existing danger that they otherwise would not have faced.

8 31. THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
9 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
10 SERVICES AGENCY were also negligent in their failure to supervise and train
11 their employees and in the hiring and retention of the same employees within the
12 County of Santa Cruz, The County of SANTA CRUZ COUNTY SHERIFF'S
13 DEPARTMENT and the Santa Cruz County Health Services Agency.

14 32. The decedents EDYTH HENDERSON and JOSPEH HENDERSON
15 died as a direct and proximate result of the aforementioned negligence of THE
16 COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
17 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
18 SERVICES AGENCY.

19 33. Plaintiffs are informed and believe, and thereon allege, that the involved
20 deputies of THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
21 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
22 SERVICES AGENCY were negligently trained and retained by THE COUNTY
23 OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
24 DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES AGENCY
25 in that they had known propensities for acting in the fashion that they did with
26 respect to this incident, all of which was a proximate cause of injuries and death
27 to the decedents EDYTH HENDERSON and JOSEPH HENDERSON, and all
28 plaintiffs.

1 34. As a proximate result of the death of the Decedent and the above-
 2 described conduct of Defendants, and each of them, EDYTH HENDERSON'S
 3 and JOSEPH HENDERSON'S heirs have sustained substantial economic and
 4 non-economic damages resulting from the loss of the love, comfort, society,
 5 attention, services and support of Decedents in an amount according to proof at
 6 trial.

7 35. As a further proximate result of the above-described conduct of the
 8 Defendants, and each of them, and the ensuing death of the Decedents EDYTH
 9 HENDERSON and JOSEPH HENDERSON, Decedents' heirs have incurred
 10 funeral and burial expenses in an amount according to proof at trial.

11 36. As a proximate result of the above-mentioned conduct of Defendants,
 12 and each of them, Plaintiff MARLENE HENDERSON was required to employ and
 13 did employ physicians to examine, treat and care for her, and incurred additional
 14 medical expenses for emergency treatment, hospital bills, and other incidental
 15 medical expenses in an amount according to proof at trial.

16 **SECOND CAUSE OF ACTION**

17 **(Survival Action By Plaintiff THE ESTATE OF EDYTH HENDERSON for** 18 **Negligent Infliction of Emotional Distress Against All Defendants)**

19 37. Plaintiffs reallege and reincorporate each and every allegation and
 20 averment set forth in Paragraphs 1 through 36 of this complaint as though fully
 21 set forth herein.

22 38. On June 30, 2013, decedent EDYTH HENDERSON and decedent
 23 JOSEPH HENDERSON were brutally murdered by their son, James Henderson.

24 39. James Henderson was housed in the Santa Cruz County Jail Mental
 25 Health Unit.

26 40. Prior to James Henderson's release, the decedent EDYTH
 27 HENDERSON and Plaintiff MARLENE HENDERSON had been working
 28

1 diligently to have James Henderson released from the Santa Cruz County Jail
2 into a Mental Health Facility.

3 41. MARLENE HENDERSON and EDYTH HENDERSON informed the
4 Santa Cruz County jail staff and the Santa Cruz County Health Services Agency
5 that it was imperative that James Henderson be released from jail to a mental
6 health facility because he suffered from paranoid schizophrenia, agoraphobia,
7 and antisocial personality disorder. Prior to his release, James Henderson had
8 been making threats of physical harm against EDYTH HENDERSON, JOSEPH
9 HENDERSON and MARLENE HENDERSON. EDYTH HENDERSON and
10 JOSPEH HENDERSON told the Santa Cruz County Jail and the Santa Cruz
11 County Health Services Agency that James Henderson posed an immediate
12 threat to the Henderson family.

13 42. EDYTH HENDERSON and MARLENE HENDERSON were assured by
14 the SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
15 COUNTY HEALTH SERVICES AGENCY that James Henderson would be
16 appointed to the Maintaining Ongoing Stability through Treatment ("M.O.S.T.")
17 Team and would be released from jail on Mental Health Probation.

18 43. EDYTH HENDERSON and MARLENE HENDERSON pleaded with the
19 SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
20 COUNTY HEALTH SERVICES AGENCY to be notified when James Henderson
21 was released from prison because EDYTH HENDERSON and MARLENE
22 HENDERSON feared for their safety.

23 44. James Henderson was released from jail one month early without
24 notice to the Henderson Family. James Henderson was released into
25 homelessness and not placed into the MOST program.

26 45. On June 30, 2013, James Henderson surprised EDYTH HENDERSON
27 and JOSEPH HENDERSON at their home and killed them quickly.
28

1 46. EDYTH HENDERSON witnessed the death of her husband JOSEPH
2 HENDERSON before she was murdered.

3 47. Prior to the death of EDYTH HENDERSON and JOSEPH
4 HENDERSON, THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA
5 CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY
6 HEALTH SERVICES AGENCY knew that James Henderson posed an imminent
7 threat to the safety of his family and breached their duty to the Henderson family
8 by failing to take action to prevent the danger. As a result of the negligence of
9 THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
10 SHERIFF'S DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH
11 SERVICES AGENCY; Claimants MARLENE HENDERSON, EDYTH
12 HENDERSON, and JOSEPH HENDERSON were deprived of their rights as
13 protected by the United States Constitution. The conduct of THE COUNTY OF
14 SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
15 DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH SERVICES
16 AGENCY created a danger to the Plaintiffs and made them more susceptible to
17 an existing danger that they otherwise would not have faced.

18 48. THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
19 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
20 SERVICES AGENCY were also negligent in their failure to supervise and train
21 their employees and in the hiring and retention of the same employees within the
22 County of Santa Cruz, The County of SANTA CRUZ COUNTY SHERIFF'S
23 DEPARTMENT and the Santa Cruz County Health Services Agency.

24 49. The decedents EDYTH HENDERSON and JOSPEH HENDERSON
25 died as a direct and proximate result of the aforementioned negligence of THE
26 COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
27 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
28 SERVICES AGENCY.

50. Plaintiffs are informed and believe, and thereon allege, that the involved deputies of THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES AGENCY were negligently trained and retained by THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES AGENCY in that they had known propensities for acting in the fashion that they did with respect to this incident, all of which was a proximate cause of injuries and death to the decedents EDYTH HENDERSON and JOSEPH HENDERSON.

THIRD CAUSE OF ACTION

(By All Plaintiffs Against All Defendants for Negligent Hiring, Training, and Supervision)

51. Plaintiffs reallege and reincorporate each and every allegation and averment set forth in Paragraphs 1 through 50 of this complaint as though fully set forth herein.

52. On June 30, 2013, decedent EDYTH HENDERSON and decedent JOSEPH HENDERSON were brutally murdered by their son, James Henderson.

53. James Henderson was housed in the Santa Cruz County Jail Mental Health Unit.

54. Prior to James Henderson's release, the decedent EDYTH HENDERSON and Plaintiff MARLENE HENDERSON had been working diligently to have James Henderson released from the Santa Cruz County Jail into a Mental Health Facility.

55. MARLENE HENDERSON and EDYTH HENDERSON informed the Santa Cruz County jail staff and the Santa Cruz County Health Services Agency that it was imperative that James Henderson be released from jail to a mental health facility because he suffered from paranoid schizophrenia, agoraphobia, and antisocial personality disorder. Prior to his release, James Henderson had

1 been making threats of physical harm against EDYTH HENDERSON, JOSEPH
2 HENDERSON and MARLENE HENDERSON. EDYTH HENDERSON and
3 JOSPEH HENDERSON told the Santa Cruz County Jail and the Santa Cruz
4 County Health Services Agency that James Henderson posed an immediate
5 threat to the Henderson family.

6 56. EDYTH HENDERSON and MARLENE HENDERSON were assured by
7 the SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
8 COUNTY HEALTH SERVICES AGENCY that James Henderson would be
9 appointed to the Maintaining Ongoing Stability through Treatment ("M.O.S.T.")
10 Team and would be released from jail on Mental Health Probation.

11 57. EDYTH HENDERSON and MARLENE HENDERSON pleaded with the
12 SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
13 COUNTY HEALTH SERVICES AGENCY to be notified when James Henderson
14 was released from prison because EDYTH HENDERSON and MARLENE
15 HENDERSON feared for their safety.

16 58. James Henderson was released from jail one month early without
17 notice to the Henderson Family. James Henderson was released into
18 homelessness and not placed into the MOST program.

19 59. On June 30, 2013, James Henderson surprised EDYTH HENDERSON
20 and JOSEPH HENDERSON at their home and killed them quickly.

21 60. EDYTH HENDERSON witnessed the death of her husband JOSEPH
22 HENDERSON before she was murdered.

23 61. Prior to the death of EDYTH HENDERSON and JOSEPH
24 HENDERSON, THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA
25 CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY
26 HEALTH SERVICES AGENCY knew that James Henderson posed an imminent
27 threat to the safety of his family and breached their duty to the Henderson family
28 by failing to take action to prevent the danger. As a result of the negligence of

1 THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
2 SHERIFF'S DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH
3 SERVICES AGENCY; Claimants MARLENE HENDERSON, EDYTH
4 HENDERSON, and JOSEPH HENDERSON were deprived of their rights as
5 protected by the United States Constitution. The conduct of THE COUNTY OF
6 SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
7 DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH SERVICES
8 AGENCY created a danger to the Plaintiffs and made them more susceptible to
9 an existing danger that they otherwise would not have faced.

10 62. THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
11 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
12 SERVICES AGENCY were also negligent in their failure to supervise and train
13 their employees and in the hiring and retention of the same employees within the
14 County of Santa Cruz, The County of SANTA CRUZ COUNTY SHERIFF'S
15 DEPARTMENT and the Santa Cruz County Health Services Agency.

16 63. The decedents EDYTH HENDERSON and JOSPEH HENDERSON
17 died as a direct and proximate result of the aforementioned negligence of THE
18 COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
19 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
20 SERVICES AGENCY.

21 64. Plaintiffs are informed and believe, and thereon allege, that the involved
22 deputies of THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
23 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
24 SERVICES AGENCY were negligently trained and retained by THE COUNTY
25 OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
26 DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES AGENCY
27 in that they had known propensities for acting in the fashion that they did with
28 respect to this incident, all of which was a proximate cause of injuries and death

1 to the decedents EDYTH HENDERSON and JOSEPH HENDERSON, and all
2 plaintiffs

3 65. Plaintiffs are informed and believe, and thereon allege, that the involved
4 employees of COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
5 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
6 SERVICES AGENCY were Negligently Trained and Retained by the COUNTY
7 OF SANTA CRUZ in that they had known propensities for acting in the fashion
8 that they did with respect to this incident, all of which was a proximate cause of
9 injuries and death to the decedents EDYTH HENDERSON and JOSEPH
10 HENDERSON, and all plaintiffs.

11 66. As a result of these acts, plaintiffs were placed in great fear of their lives
12 and physical wellbeing. Moreover, due to the wrongful, intentional and malicious
13 acts of each of these defendants, plaintiffs have suffered and will continue to
14 suffer, extreme pain and severe mental anguish, as well as mental and physical
15 damage and injury to their minds and bodies.

16 67. As a proximate result of the above-mentioned conduct of defendants,
17 and each of them, plaintiffs have been required to employ and did employ
18 physicians and surgeons to examine, treat, and care for them, and incurred
19 additional medical expenses for emergency treatment, hospital bills, and other
20 incidental medical expenses in an amount according to proof at trial.

21 **FOURTH CAUSE OF ACTION**

22 **By All Plaintiffs Against All Defendants**

23 **for Negligence: Failure to Warn**

24 68. Plaintiffs reallege and reincorporate each and every allegation and
25 averment set forth in Paragraphs 1 through 67 of this complaint as though fully
26 set forth herein.

27 69. On June 30, 2013, decedent EDYTH HENDERSON and decedent
28 JOSEPH HENDERSON were brutally murdered by their son, James Henderson.

1 70. James Henderson was housed in the Santa Cruz County Jail Mental
2 Health Unit.

3 71. Prior to James Henderson's release, the decedent EDYTH
4 HENDERSON and Plaintiff MARLENE HENDERSON had been working
5 diligently to have James Henderson released from the Santa Cruz County Jail
6 into a Mental Health Facility.

7 72. MARLENE HENDERSON and EDYTH HENDERSON informed the
8 Santa Cruz County jail staff and the Santa Cruz County Health Services Agency
9 that it was imperative that James Henderson be released from jail to a mental
10 health facility because he suffered from paranoid schizophrenia, agoraphobia,
11 and antisocial personality disorder. Prior to his release, James Henderson had
12 been making threats of physical harm against EDYTH HENDERSON, JOSEPH
13 HENDERSON and MARLENE HENDERSON. EDYTH HENDERSON and
14 JOSPEH HENDERSON told the Santa Cruz County Jail and the Santa Cruz
15 County Health Services Agency that James Henderson posed an immediate
16 threat to the Henderson family.

17 73. EDYTH HENDERSON and MARLENE HENDERSON were assured by
18 the SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
19 COUNTY HEALTH SERVICES AGENCY that James Henderson would be
20 appointed to the Maintaining Ongoing Stability through Treatment ("M.O.S.T.")
21 Team and would be released from jail on Mental Health Probation.

22 74. EDYTH HENDERSON and MARLENE HENDERSON pleaded with the
23 SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ
24 COUNTY HEALTH SERVICES AGENCY to be notified when James Henderson
25 was released from prison because EDYTH HENDERSON and MARLENE
26 HENDERSON feared for their safety.
27
28

1 75. James Henderson was released from jail one month early without
2 notice to the Henderson Family. James Henderson was released into
3 homelessness and not placed into the MOST program.

4 76. On June 30, 2013, James Henderson surprised EDYTH HENDERSON
5 and JOSEPH HENDERSON at their home and killed them quickly.

6 77. EDYTH HENDERSON witnessed the death of her husband JOSEPH
7 HENDERSON before she was murdered.

8 78. Prior to the death of EDYTH HENDERSON and JOSEPH
9 HENDERSON, THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA
10 CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY
11 HEALTH SERVICES AGENCY knew that James Henderson posed an imminent
12 threat to the safety of his family and breached their duty to the Henderson family
13 by failing to take action to prevent the danger. As a result of the negligence of
14 THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
15 SHERIFF'S DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH
16 SERVICES AGENCY; Claimants MARLENE HENDERSON, EDYTH
17 HENDERSON, and JOSEPH HENDERSON were deprived of their rights as
18 protected by the United States Constitution. The conduct of THE COUNTY OF
19 SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
20 DEPARTMENT and THE SANTA CRUZ COUNTY HEALTH SERVICES
21 AGENCY created a danger to the Plaintiffs and made them more susceptible to
22 an existing danger that they otherwise would not have faced.

23 79. THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
24 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
25 SERVICES AGENCY were also negligent in their failure to supervise and train
26 their employees and in the hiring and retention of the same employees within the
27 County of Santa Cruz, The County of SANTA CRUZ COUNTY SHERIFF'S
28 DEPARTMENT and the Santa Cruz County Health Services Agency.

1 80. The decedents EDYTH HENDERSON and JOSPEH HENDERSON
2 died as a direct and proximate result of the aforementioned negligence of THE
3 COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
4 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
5 SERVICES AGENCY.

6 81. Plaintiffs are informed and believe, and thereon allege, that the involved
7 employees of THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA
8 CRUZ COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY
9 HEALTH SERVICES AGENCY were negligently trained and retained by THE
10 COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
11 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
12 SERVICES AGENCY in that they had known propensities for acting in the
13 fashion that they did with respect to this incident, all of which was a proximate
14 cause of injuries and death to the decedents EDYTH HENDERSON and
15 JOSEPH HENDERSON, and all plaintiffs

16 82. Plaintiffs are informed and believe, and thereon allege, that the involved
17 employees of COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
18 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
19 SERVICES AGENCY were Negligently Trained and Retained by the COUNTY
20 OF SANTA CRUZ in that they had known propensities for acting in the fashion
21 that they did with respect to this incident, all of which was a proximate cause of
22 injuries and death to the decedents EDYTH HENDERSON and JOSEPH
23 HENDERSON, and all plaintiffs.

24 83. As a result of these acts, plaintiffs were placed in great fear of their lives
25 and physical wellbeing. Moreover, due to the wrongful, intentional and malicious
26 acts of each of these defendants, plaintiffs have suffered and will continue to
27 suffer, extreme pain and severe mental anguish, as well as mental and physical
28 damage and injury to their minds and bodies.

1 84. As a proximate result of the above-mentioned conduct of defendants,
2 and each of them, plaintiffs have been required to employ and did employ
3 physicians and surgeons to examine, treat, and care for them, and incurred
4 additional medical expenses for emergency treatment, hospital bills, and other
5 incidental medical expenses in an amount according to proof at trial.

6 **FIFTH CAUSE OF ACTION**

7 **(Pursuant to 42 U.S.C. § 1983 for Violations of Plaintiffs' Rights Under the**
8 **Fourteenth Amendment to the United States Constitution**
9 **Against all Defendants)**

10 85. Plaintiffs reallege and reincorporate each and every allegation and
11 averment set forth in Paragraphs 1 through 84 of this complaint as though fully
12 set forth herein.

13 86. Under the Fourteenth Amendment to the United States Constitution,
14 Plaintiff, MARLENE HENDERSON had a cognizable right to a familial
15 relationship with EDYTH HENDERSON and JOSEPH HENDERSON, as well as
16 the related right to be free from unwarranted State interference with the same.

17 87. Plaintiffs are informed and believe, and thereon allege, that there is a
18 custom and policy within THE COUNTY OF SANTA CRUZ, THE SANTA CRUZ
19 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
20 SERVICES AGENCY whereby inmates with severe mental health issues are not
21 given the proper care, treatment and rehabilitation while incarcerated in the
22 Santa Cruz County Jail thereby causing these inmates to be a danger to
23 themselves and third persons upon their release from the Santa Cruz County
24 Jail.

25 88. Plaintiffs are informed and believe, and thereon allege, that there is also
26 a policy within the COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
27 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
28 SERVICES AGENCY whereby inmates with severe mental health problems and

1 known propensities to commit harm to civilians are released from the Santa Cruz
2 County Jail into homelessness where they pose an imminent threat of harm to
3 civilians upon their release.

4 89. Plaintiffs are informed and believe, and thereon allege, that there is also
5 a policy within the COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
6 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
7 SERVICES AGENCY whereby civilians who have been threatened by dangerous
8 inmates housed at the Santa Cruz County Jail are not given notice prior to the
9 release of dangerous inmates who pose a specific threat of danger and harm to
10 civilians.

11 90. Plaintiffs are informed and believe, and thereon allege, that there is also
12 a policy within the COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
13 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
14 SERVICES AGENCY whereby civilians are given false assurances by the
15 COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY SHERIFF'S
16 DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES AGENCY
17 that they would be notified prior to the release of inmates who have made
18 specific threats of violence against them prior to the release of the inmates.

19 91. The COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
20 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
21 SERVICES AGENCY exhibit deliberate indifference to the treatment,
22 rehabilitation and care of inmates suffering from serious mental illness and who
23 are a known threat to the safety of civilians.

24 92. The COUNTY OF SANTA CRUZ, THE SANTA CRUZ COUNTY
25 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
26 SERVICES AGENCY exhibit deliberate indifference in their failure to warn
27 civilians of the release of dangerous inmates who have made specific threats of
28 harm and violence to civilians.

1 93. The decedents EDYTH HENDERSON and JOSPEH HENDERSON
 2 died as a direct and proximate result of the aforementioned negligent, careless,
 3 deliberately indifferent, intentional, willful or wanton misconduct, including the
 4 negligent, careless, deliberately indifferent, intentional, willful or wanton
 5 misconduct in creating and otherwise causing the incidents, conditions and
 6 circumstances hereinafter set forth, or by reason of direct or imputed negligence
 7 or vicarious fault or breach of duty arising out of the matters herein alleged of
 8 THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
 9 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
 10 SERVICES AGENCY who acted under color of law as averred herein.
 11 Defendants acted in reckless and callous disregard for the constitutional rights of
 12 Plaintiffs thereby violating Plaintiff's rights under the Fourteenth Amendments of
 13 the United States Constitution.

14 94. Plaintiffs seek general and special damages according to proof for the
 15 deprivation of Plaintiff MARLENE HENDERSON'S constitutionally protected
 16 interest in the familial relationship, love, care, and companionship of her parents
 17 EDYTH HENDERSON and JOSEPH HENDERSON.

18 95. The wrongful conduct of Defendants, and each of them, is a typical
 19 example of a larger policy, pattern, practice, custom and usage of Defendants
 20 THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
 21 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
 22 SERVICES AGENCY to deprive certain segments of the populace of their
 23 inalienable rights by not properly screening, hiring, training, testing, monitoring,
 24 supervising, disciplining or investigating potential misdeeds of employees of THE
 25 COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
 26 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
 27 SERVICES AGENCY; negligent retention of said employees and maintenance of
 28 a "code of silence," whereby no other employees, supervisors or policy makers

1 would disclose or intervene to prevent and/or would actively cover up the
2 aforementioned misconduct.

3 96. Plaintiffs are informed and believe, and thereupon aver, that the
4 wrongful acts of employee Defendants, when viewed in the context of the
5 enterprise of public safety, are broadly incidental to that enterprise, and are not
6 so unusual or startling that it would seem unfair to include any losses suffered as
7 a result of said acts among other costs of employer/municipality Defendants'
8 business.

9 97. Defendants, and each of them, acted at all times herein knowing that
10 the established customs, policies, patterns, and practices of the Defendants'
11 employees allow a cover-up and allow the continued violation of the Fourteenth
12 Amendment of the Constitution of the United States.

13 98. Plaintiffs are informed and believe and thereon aver that Defendants
14 THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
15 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
16 SERVICES AGENCY knew or in the exercise of reasonable care should have
17 known of a history, propensity and pattern, prior to and after the time of EDYTH
18 HENDERSON' S and JOSEPH HENDERSON'S death, for employees of THE
19 COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY
20 SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
21 SERVICES AGENCY to be so negligent, reckless and careless such as to cause
22 incidents as described herein.

23 99. Prior to the circumstances leading to and following EDYTH
24 HENDERSON'S and JOSEPH HENDERSON'S death, which involved
25 Defendants THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
26 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
27 SERVICES AGENCY and/or reckless, careless and negligent employee tactics
28 that led to the death of EDYTH HENDERSON and JOSEPH HENDERON were

1 the subject of prior complaints of allegations of similar conduct and had been
2 found by federal and state courts to have violated constitutional rights in the
3 course and scope and under color of law in their capacities as THE COUNTY OF
4 SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
5 DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES AGENCY
6 employees.

7 100. Notwithstanding this information and the history of THE COUNTY OF
8 SANTA CRUZ, THE COUNTY OF SANTA CRUZ COUNTY SHERIFF'S
9 DEPARTMENT and the SANTA CRUZ COUNTY HEALTH SERVICES
10 AGENCY, the failed to train, supervise or discipline those employees and
11 investigate similar citizen complaints. Defendants' disregard of this knowledge or
12 failure to adequately investigate and discover this policy, pattern, practice,
13 custom and usage of constitutional violations or the existence of facts that create
14 the potential of unconstitutional acts, violated their duty to supervise, train and
15 instruct their subordinates to prevent similar acts to other persons.

16 101. Defendants' failure to take steps to train, supervise, investigate or
17 instruct THE COUNTY OF SANTA CRUZ, THE COUNTY OF SANTA CRUZ
18 COUNTY SHERIFF'S DEPARTMENT and the SANTA CRUZ COUNTY HEALTH
19 SERVICES AGENCY, including Doe Defendants, resulted in the ultimate killing
20 of EDYTH HENDERSON and JOSEPH HENDERSON and the violation of
21 MARLENE HENDERSON'S rights as protected by the Fourteenth Amendment to
22 the United States Constitution.

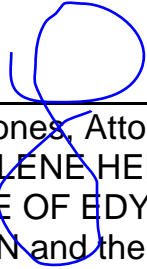
23 102. The aforementioned acts of the individual Doe Defendants, and each of
24 them were willful, wanton, malicious and oppressive and thereby justifies the
25 awarding of exemplary and punitive damages. Further, Plaintiffs are entitled to,
26 and do seek, attorney's fees pursuant to 42 U.S.C. § 1988.

27 WHEREFORE, plaintiff prays for judgment against defendants and each of
28 them as follows:

1. For burial and funeral related expenses according to proof at trial;
2. For general damages in an amount to be determined according to proof at trial;
3. For medical and related expenses according to proof at trial;
4. For costs of suit incurred herein;
5. For punitive damages against the individual Defendants in an amount to be determined according to proof at trial;
6. For attorneys' fees, investigation fees, and expert witness fees incurred herein; and
7. For such other and further relief as the court may deem just and proper.

DATED: November 14, 2014

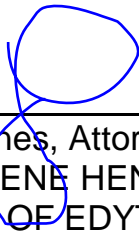
LAW OFFICE OF MICHAEL J. CURLS

By: 
Nichelle D. Jones, Attorneys for
Plaintiff MARLENE HENDERSON,
THE ESTATE OF EDYTH
HENDERSON and the ESTATE OF
JOSEPH HENDERSON

DEMAND FOR JURY TRIAL

DATED: November 14, 2014

LAW OFFICE OF MICHAEL J. CURLS

By: 
Nichelle D. Jones, Attorneys for
Plaintiff MARLENE HENDERSON,
THE ESTATE OF EDYTH
HENDERSON and the ESTATE OF
JOSEPH HENDERSON